

### Remarks

Reconsideration and reexamination are requested in view of the above amendments and the following remarks. Claims 1, 2, 4, 5, 7, 9-12, 17, 19, 20, 26 and 27 are amended. Claims 1-27 are pending.

Claims 1, 12 and 20 have been amended to refer to first and second opposing surfaces rather than top and bottom surfaces. The characterization of the surfaces 8, 10 as the bottom and top surfaces, respectively, is dependent upon the particular orientation of the block. In certain instances, the surface 8 could in fact be on top, while the surface 10 could be on the bottom. Therefore, to avoid any ambiguity in this regard, claims 1, 12, and 20 have been amended to recite first and second opposing surfaces. The dependent claims have been amended where appropriate as a result of the language now recited in claims 1, 12 and 20. Further, page 8, lines 3-5 of the specification have been amended to utilize language that is consistent with the language now recited in the claims. These amendments merely constitute a change in terminology, and are fully supported by the original disclosure. No new matter has been entered.

Additional amendments have been made to the claims to correct typographical errors and other minor informalities noticed by Applicant upon review of the claims. Again, no new matter has been entered.

In the Office Action, claims 26 and 27 are rejected under 35 USC 112, second paragraph, as being indefinite. This rejection is respectfully traversed, to the extent that it is applied to the amended claims, and reconsideration is requested in view of the following comments. In order to expedite prosecution, claims 26 and 27 have been amended to clearly define and set forth the claimed invention. The claims are believed to be definite, and withdrawal of the rejection is requested.

Applicant notes that each of the foregoing amendments were made to overcome Section 112 and/or minor informalities. Accordingly, such amendments and remarks were not made to overcome rejections based on art and so should not be construed in a limiting manner.

### Double patenting rejection

Claims 1-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent 5,795,105. This rejection is respectfully traversed and reconsideration is requested in view of the following comments.

The Examiner contends that it would have been obvious to eliminate from patent claims 1-25 the "functional" terminology reciting that the protrusion and insets have relative sizes adapted to permit relative rotation of the protrusion and inset within which it is mated. Firstly, the Examiner's characterization of the relative size language in patent claims 1-25 as being merely functional terminology is incorrect. Patent claims 1-25 recite that the protrusion(s) and insets have relative sizes adapted to permit relative rotation. Thus, the patents claims are structurally limited by requiring the protrusion and insets to have a size relationship that can permit such relative rotation. This is not a functional limitation; rather the language used in the patent claims requires a suitable size relationship between the protrusion and insets.

As indicated in MPEP 804(II)(B)(1), the analysis employed in an obviousness-type double patenting rejection parallels the guidelines for a rejection under 35 USC 103(a). In the double patenting rejection in the Office Action, the Examiner states that the elimination of the so-called functional terminology from the patent claims would have been obvious, without giving any sort of rational as to why it would have been obvious. Applicant respectfully disagrees with the Examiner's conclusion. What is the basis for the Examiner's conclusion?

Application claims 1-27 are patentable over patent claims 1-25. As outlined above, the patent claims contain a limitation reciting that there be a size relationship between the protrusion and inserts to enable relative rotation. The patent claims further recite that the protrusion side surface circumscribes the protrusion. Neither of these limitations is recited in application claims 1-27. There is simply no suggestion, other than Applicant's own disclosure, to eliminate these limitations from the claims. The Examiner's conclusion regarding the obviousness of eliminating these limitations is thus based solely upon impermissible hindsight.

Accordingly, application claims 1-27 are not obvious in view of claims 1-25 of US Patent 5,795,105. Reconsideration and withdrawal of the rejection are requested.

#### Rejection under 35 USC 102

Claims 1-27 are rejected under 35 USC 102(f) because the Applicant did not allegedly invent the claimed subject matter, as evidenced by US Patent 5,704,183 to Woolford. This rejection is respectfully traversed and reconsideration is requested in view of the following comments.

Claims 1, 12, 20, 26 and 27 each recite that the protrusion side surface has an angle of at least about 20° from vertical. Although Woolford discloses a protrusion 26, Woolford does not

disclose any specific angular orientation of a side surface of the protrusion, and in particular Woolford does not disclose a side surface of the protrusion having an angle of at least about 20° from vertical. Since Woolford lacks such a disclosure, Woolford did not invent the subject matter recited in the claims.

Reconsideration and withdrawal of the rejection are requested.

Conclusion

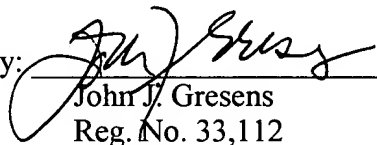
All objections and rejections set forth in the Office Action have been addressed, and therefore favorable reconsideration and allowance of this application are requested. If any issues remain which the Examiner feels may be resolved over the telephone, the Examiner is invited to telephone the undersigned in order to expedite prosecution.

Respectfully submitted,

MERCHANT & GOULD P.C.  
3100 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402  
612/332-5300

Dated: June 8, 1999

By:

  
\_\_\_\_\_  
John J. Gresens  
Reg. No. 33,112  
JJG/JAL